

RESPONDEE INFORMATION FORM

Please complete the details below and attach it with your response. This will help ensure we handle your response appropriately:

Name: ANDY WILLOX

Postal Address: FEDERATION OF SMALL BUSINESSES
74 BERKELEY STREET
GLASGOW G3 7DS

Consultation title:

1. Are you responding as: (please tick one box)

- (a) an individual (go to 2)
(b) **on behalf of** a group or organisation (go to 3)

2. **If responding as an INDIVIDUAL:**

(a) Do you agree to your response being made available to the public (in SE library and/or on SE website)?

- Yes (go to 2b below)
No, not at all

(b) **Where confidentiality is not requested**, we will make your response available to the public on the following basis (**please tick one** of the following boxes)

- Yes, make my response, name and address all available
Yes, make my response available, but not my name or address
Yes, make my response and name available, but not my address

3. **IF RESPONDING ON BEHALF OF GROUPS OR ORGANISATIONS:**

Your name and address as respondees **will be** made available to the public (in the SE library and/or on SE website). Are you content for your response to be made available also?

- Yes
No

4. We will share your response internally with other SE policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so.

Are you content for the Scottish Executive to contact you again in the future for consultation or research purposes?

- Yes
No



Smoking in Public Places: A Consultation

Response from the Federation of Small Businesses in Scotland

Introduction

- 1.1 The Federation of Small Businesses is Scotland's largest direct-member business organisation, representing 18,000 members. The FSB campaigns for an economic and social environment which allows small businesses to prosper.
- 1.2 The Federation welcomes this opportunity to comment upon smoking in public places. Any proposals to change current legislation would undoubtedly affect small businesses in many sectors, with hospitality businesses likely to see the greatest impact.

Consultation Process

- 2.1 To inform our response to 'Smoking in Public Places' the Federation of Small Businesses in Scotland carried out a telephone survey of 100 hospitality businesses (including pubs, restaurants and hotels) across Scotland.
- 2.2 While we recognise that this is a small sample, wider discussions with FSB members and at Federation branch and regional meetings, leads us to believe that the survey is an accurate representation of the views of small hospitality businesses across Scotland.

Smoking Where Food is Served

- 3.1 The survey shows that only 21% of businesses allow smoking in areas where food is served, while 31% do not allow smoking where food is served. The remainder offer some form of choice, whether a split smoking/non-smoking dining area or a non-smoking lounge and smoking bar.
- 3.2 We believe this shows that businesses have already taken positive steps to address customers' concerns about smoking.
- 3.3 The respondents were asked whether they would support a ban on smoking in areas where food is served and the majority (70%) would support such a measure.
- 3.4 Publicans and restaurateurs are more likely to support this proposal, though 39% of publicans do not serve food in their premises. Hoteliers are less positive, only 59% supporting such a proposal.

A Wider Ban on Smoking

- 4.1 The respondents were asked whether they would support a wider ban on smoking in all bars and pubs, which would be the result of a ban on smoking in all enclosed public places.
- 4.2 The responses to this question show that there is substantial opposition to a wider ban, with 67% against and 30% supporting such a proposal.

- 4.3 Restaurateurs are more likely to support a wider ban, with 46% supportive and 52% against. However, 85% of publicans – the group which, potentially, would be most affected by a complete ban - are against, as are 65% of hoteliers.

Business Impact

- 5.1 Opinion is divided on the likely business impact of changes to smoking legislation.
- 5.2 Overall the majority of businesses feel that either of these proposals (banning smoking where food is served and a wider ban on smoking in public places) would have an effect on their business. Publicans are more likely to feel there would be an impact on their business with 85% reporting there would be a major effect on the business, while 60% of restaurateurs feel there would be no effect on their business.
- 5.3 However, it should be noted that some of those respondents who feel there would be no impact already have no-smoking policies in operation in their premises.
- 5.4 The FSB believes that any proposals for change must be accompanied by a robust regulatory impact assessment. In particular, we believe that the financial implications of any changes must be better-researched. This assessment also must take account of the different nature and type of licensed premises, as well as differences in geographic location and customer groups.
- 5.5 As part of this assessment we would strongly urge the Scottish Executive to visit a variety of small businesses to better ascertain the practicalities of any legislative changes.
- 5.6 Any changes would also have to be accompanied by a well-funded awareness campaign targeted at small businesses, informing them of the exact requirements of any new legislation, as well as advice on support, training and enforcement.

Additional Comments

Choice

- 6.1 A number of respondents feel that an element of personal choice should be retained and that it is a matter of personal preference for the customer whether they choose to eat and drink in smoking or non-smoking establishments.
- 6.2 Some respondents feel that it was inappropriate for government to get involved in this matter.
- 6.3 A quarter of publicans and 16% of all respondents believe that decisions about smoking should remain the responsibility of the licensee and that it is for the individual business owner to decide upon how best to run their business. This could be done by allowing flexibility e.g. by offering a 'snug' bar area for smokers in pubs or considering some form of segregation of smoking and non-smoking areas. However, there are obvious difficulties associated with implementing any legislation which may require any internal alterations or change.

Consultation with Businesses

- 7.1 A number of respondents are concerned about the level of consultation with businesses. Some felt that the Scottish Executive should consult every licensee, while others felt that

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if changes are made they should be made gradually to allow for effective analysis of the benefits to public health, as well as difficulties for businesses.

7.2 The FSB is particularly concerned that the business community across Scotland be kept involved in the Scottish Executive's consideration of smoking in public places to ensure that any legislative changes do not place unnecessary burdens on small businesses.

7.3 The Federation has specific concerns about the enforcement of any new legislation. In particular we have heard from licensees about their worries of being able to enforce such a ban. Our membership survey "Lifting the Barriers to Growth 2004" shows that hospitality businesses are 4 times more likely than other business sectors to have suffered assaults on business owners and staff in the past year. Given this fact, we are concerned that business owners themselves and not just the perpetrator could be open to prosecution under any new legislation.

Other Suggestions

8.1 Respondents also suggested that further work on the benefits of ventilation be carried out. There was also a suggestion that the Scottish Executive could consider funding assistance to improve ventilation equipment in licensed premises.

8.2 Comments were made about the benefits of extending no-smoking campaigns and education about the health risks of smoking, as well as a suggestion that cigarettes be banned, might be more appropriate ways to deal with concerns about smoking.

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Conclusion

9.1 Consultation with FSB members has shown that businesses remain sceptical of the need for a broad ban on smoking in public places, especially those in the pub sector which is likely to be most adversely affected by such a ban. However, there is less resistance to the introduction of a ban on smoking in areas where food is served.

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9.2 The Federation believes that there are serious business concerns which must be addressed as part of any consideration to change legislation affecting smoking in public places.

9.3 In particular, we believe that the following issues must be addressed; consultation with businesses, practical implementation of new legislation, the financial impact on different types of business and enforcement of new legislation.

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9.4 The Federation strongly urges the Scottish Executive to visit individual businesses as part of its consideration of this matter and before the drafting of any legislation in order to avoid impractical regulations which place unnecessary burdens on Scottish small businesses.

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For further information on any of the points raised in this submission, please contact Susan Love, Policy Development Officer, on scotpu.policy@fsb.org.uk or 01259 723713

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